

## REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claims 1, 10 and 11 are pending in this application.

Claim 1 is amended to delete “C1-6 alkylene” from the definition of W; to delete “in which optional 1-2 of the carbon atom(s) may be replaced by oxygen, benzene ring, or C5-7 carbocyclic ring” from the definition of ring 1; and to delete “an N-oxide thereof”.

Claim 11 is also amended to delete “an N-oxide thereof”.

### **I. Telephonic Interviews**

Applicants appreciate the courtesies extended to Applicants’ attorney by Examiner McDowell during the telephonic interviews held October 21, 2009 and January 6, 2010. The Examiner agreed that the term “aryl” includes heteroaryl compounds and polycyclic rings having at least one aromatic ring within the polycyclic ring system. However, the Examiner requested Applicants to specifically point to support in the specification the term “aryl”. Support for the “aryl” is discussed below.

### **II. Claim Objection**

The Examiner objects to claims 1, 10 and 11 for including non-elected subject matter. The definition of W in claim 1 has been amended to delete “C1-6 alkylene”. Moreover, as agreed upon during the interviews, the term “aryl” is not limited to fully aromatic carbocyclic compounds. The term “aryl” can include aromatic compounds with heteroatoms. Thus, a pyridine ring and an indan ring are “aryl” rings.

Furthermore, the originally filed specification states that ring 2 is preferably “a 5-10 membered mono- or bi-cyclic aromatic heterocyclic ring comprising 1-3 heteroatom(s)”, and “a C5-10 mono- or bi-cyclic aromatic carbocyclic ring” (see page 41/269, line 27 - page 42/269, line 4).

Accordingly, the term “aryl” includes aromatic compounds with heteroatoms, and polycyclic rings having at least one of the rings as an aromatic ring.

Therefore, the definitions of “ring 1” and “ring 2” in claim 1 do not include non-elected subject matter.

**III. Claim Rejection Under 35 U.S.C. 112, Second Paragraph**

The Examiner rejects claims 1, 10 and 11 under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 1 is amended to delete "in which optional 1-2 of the carbon atom(s) may be replaced by oxygen, benzene ring, or C5-7 carbocyclic ring" from the definition of ring 1, rendering the rejection moot.

**IV. Claim Rejection Under 35 U.S.C. 112, First Paragraph**

The Examiner rejects claims 1, 10 and 11 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for salts of the claimed compounds, does not reasonably provide enablement for N-oxides of said compounds. Claims 1 and 11 are amended to delete "an N-oxide thereof", rendering the rejection moot.

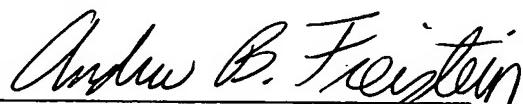
**V. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner find that anything further would be desirable in order to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

Shirou SAWA et al.

By 

Andrew B. Freistein  
Registration No. 52,917  
Attorney for Applicants

WMC/ABF/cbc  
Washington, D.C. 20005-1503  
Telephone (202) 721-8200  
Facsimile (202) 721-8250  
January 11, 2010